

**Introduced by Senator Bowen**

February 22, 2005

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An act to amend Section 6006.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as amended, Bowen. Sales tax: occasional sale.

The Sales and Use Tax Law exempts an occasional sale, as defined, from the taxes imposed by that law, provided the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which a seller's permit is, or would be required.

This bill would expand that exemption by defining a series of sales ~~means~~ as three or more sales in any 12-month period where the gross receipts derived from those sales exceed ~~\$1200~~ \$1,200. *This bill would additionally allow the State Board of Equalization to annually adjust the \$1,200 threshold, as specified.*

Counties and cities are authorized to impose local sales and use taxes in conformity with the state sales and use taxes. Exemptions from the state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6006.5 of the Revenue and Taxation  
2 Code is amended to read:  
3 6006.5. "Occasional sale" includes all of the following:  
4 ~~(a) A sale of property not held or used by a seller in the course~~  
5 *(a) (1) A sale of property not held or used by a seller in the*  
6 *course of activities for which he or she is required to hold a*  
7 *seller's permit or permits or would be required to hold a seller's*  
8 *permit or permits if the activities were conducted in this state,*  
9 *provided that the sale is not one of a series of sales sufficient in*  
10 *number, scope, and character to constitute an activity for which*  
11 *he or she is required to hold a seller's permit or would be*  
12 *required to hold a seller's permit if the activity were conducted in*  
13 *this state. For purposes of the preceding sentence, "a series of*  
14 *sales sufficient in number, scope, and character" means three or*  
15 *more sales in any 12-month period where the gross receipts*  
16 *derived from those sales exceed twelve hundred dollars (\$1,200).*  
17 *(2) The board shall adjust the twelve hundred dollars (\$1,200)*  
18 *as follows:*  
19 *(A) On or before September 1, 2006, and on or before each*  
20 *September 1 of each year thereafter, the board shall multiply the*  
21 *amount applicable for the current calendar year by the inflation*  
22 *factor adjustment determined by the Franchise Tax Board*  
23 *pursuant to subdivision (h) of Section 17041, the resulting*  
24 *amount is to be the applicable amount for the succeeding*  
25 *calendar year. The applicable amount shall be operative as an*  
26 *adjustment of the amount specified in paragraph (1) only when*  
27 *the applicable amount, as computed, is equal to or exceeds a new*  
28 *operative threshold, as defined in subparagraph (C).*  
29 *(B) When the applicable amount equals or exceeds the*  
30 *operative threshold specified in subparagraph (C), the resulting*  
31 *applicable amount, rounded to the nearest multiple of one*  
32 *hundred dollars (\$100), shall be operative for purposes of*  
33 *paragraph (1) beginning January 1 of the succeeding calendar*  
34 *year.*

1     (C) *For the purposes of this paragraph, “operative threshold”*  
2     *means an amount that exceeds by at least one hundred dollars*  
3     *(\$100), the greater of either the amount specified in paragraph*  
4     *(1) or the amount computed pursuant to subparagraphs (A) and*  
5     *(B) as the operative adjustment to the amount specified in*  
6     *paragraph (1).*

7     (b) Any transfer of all or substantially all the property held or  
8     used by a person in the course of those activities when after the  
9     transfer the real or ultimate ownership of the property is  
10    substantially similar to that which existed before the transfer. For  
11    the purposes of this section, stockholders, bondholders, partners,  
12    or other persons holding an ownership interest in a corporation or  
13    other entity are regarded as having the “real or ultimate  
14    ownership” of the property of the corporation or other entity.

15    (c) A sale of property, other than hay, by a producer of hay,  
16    provided that the sale is not one of a series of sales sufficient in  
17    number, scope, or character to constitute an activity for which the  
18    producer would be required to hold a seller’s permit if the  
19    producer were not also selling hay.

20    SEC. 2. Notwithstanding Section 2230 of the Revenue and  
21    Taxation Code, no appropriation is made by this act and the state  
22    shall not reimburse any local agency for any sales and use tax  
23    revenues lost under this act.

24    SEC. 3. This act provides for a tax levy within the meaning of  
25    Article IV of the Constitution and shall go into immediate effect.  
26    However, the provisions of this act shall become operative on the  
27    first day of the first calendar quarter commencing more than 90  
28    days after the effective date of this act.